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1 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

2 -----x  
UNITED STATES OF AMERICA,

New York, N.Y.

3 v.

19 Cr. 490 (RMB)

4 JEFFREY EPSTEIN,

5 Defendant.

6 -----x

Conference

7 July 8, 2019  
8 1:20 p.m.

9 Before:

10 HON. HENRY B. PITMAN,

11 Magistrate Judge

12  
13 APPEARANCES

14 GEOFFREY S. BERMAN

United States Attorney for the  
Southern District of New York

15 BY: ALEXANDER ROSSMILLER

16 ALISON J. MOE

MAURENE R. COMEY

17 Assistant United States Attorneys

18 STEPTOE & JOHNSON, LLP

Attorneys for Defendant

19 BY: REID H. WEINGARTEN

20 MARTIN G. WEINBERG

Attorney for Defendant

21 MARC FERNICH

22 Attorney for Defendant

23 Also Present:

24 Special Agent Amanda Young, FBI

25 Detective Paul Byrne, NYPD

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(Case called)

THE DEPUTY CLERK: Counsel, please state your name for the record.

MR. ROSSMILLER: Good afternoon, your Honor. For the government, Alex Rossmiller, Alison Moe, and Maurene Comey. With us are Special Agent Amanda Young of the F.B.I. and Detective Paul Byrne, NYPD task force officer.

THE COURT: Okay.

MR. WEINGARTEN: Good afternoon, your Honor. For Jeffrey Epstein, Reid Weingarten from the law firm of Steptoe & Johnson.

MR. WEINBERG: Good afternoon, your Honor. Martin Weinberg. I'm an attorney from Boston, Massachusetts; and, with your Honor's permission, I will be filing a *pro hac vice* to represent Mr. Epstein.

THE COURT: Okay.

MR. FERNICH: Good afternoon, your Honor. Marc Fernich, New York, New York, also for Mr. Epstein.

THE COURT: All right. I have spoken to Judge Berman. The matter has been referred to me for the initial appearance, arraignment, and bail.

Mr. Epstein, my name is Magistrate Judge Pitman. The purpose of this proceeding is to inform you of certain rights that you have, to inform you of the charges against you, to consider whether counsel should be appointed for you, and to

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1 decide under what conditions, if any, you should be released.

2 Can I have the date and time of arrest, please?

3 MR. ROSSMILLER: Yes, your Honor. The defendant was  
4 arrested on Saturday, July 6, at approximately 5:30 p.m.

5 THE COURT: Thank you.

6 Mr. Epstein, you have the right to remain silent. You  
7 are not required to make any statements. Even if you have made  
8 any statements to the authorities, you need not make any  
9 further statements. Anything you do say can be used against  
10 you.

11 You have the right to be released, either  
12 conditionally or unconditionally, pending trial unless I find  
13 that there are no conditions or combination of conditions that  
14 would reasonably assure your presence in court and the safety  
15 of the community.

16 You have the right to be represented by counsel during  
17 all court proceedings, including this one, and during all  
18 questioning by the authorities. If you cannot afford an  
19 attorney, I will appoint one to represent you.

20 It is my understanding that you are being represented  
21 by retained counsel. I want to advise you that the right to  
22 the appointment of counsel is an ongoing right that you possess  
23 throughout these proceedings. If at any time you are unable to  
24 continue with retained counsel for financial reasons, you can  
25 apply to the court at any time for the appointment of counsel.

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1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Mr. Epstein, you are charged in an  
4 indictment in two counts.

5 Count One charges you with a sex trafficking  
6 conspiracy in violation of Title 18 United States Code § 371.

7 Count Two charges with you with the substantive  
8 offense of sex trafficking in violation of Title 18 United  
9 States Code § 1591.

10 Mr. Weingarten, are you going to be lead counsel here  
11 today?

12 MR. WEINGARTEN: Yes, your Honor.

13 THE COURT: Mr. Weingarten, have you received a copy  
14 of the indictment?

15 MR. WEINGARTEN: Yes, your Honor.

16 THE COURT: Have you reviewed it with your client?

17 MR. WEINGARTEN: Yes, your Honor.

18 THE COURT: Do you waive its reading?

19 MR. WEINGARTEN: Yes, your Honor.

20 THE COURT: Mr. Epstein, how do you plead?

21 THE DEFENDANT: Not guilty, your Honor.

22 THE COURT: Because the defendant has been indicted,  
23 there will be no preliminary hearing, and that takes us to the  
24 question of bail. In that regard, I have received the Pretrial  
25 Services report. I have also received a letter from the

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1 government dated July 8, 2019.

2 I take it all counsel have the same documents?

3 MR. WEINGARTEN: Yes, your Honor.

4 THE COURT: I will hear from the government first, and  
5 then I will hear from defense counsel.

6 MR. ROSSMILLER: Yes, your Honor.

7 The government intends to seek detention, and I am  
8 happy to explain the reasons why. Would the court prefer that  
9 I speak from the table or from the podium?

10 THE COURT: Whatever your pleasure is.

11 MR. ROSSMILLER: Your Honor, the defendant poses an  
12 extraordinary risk of flight and danger presented by him.  
13 Given the charges and the characteristics of the defendant, he  
14 simply cannot reasonably be expected to appear in court if he  
15 is granted bail. Accordingly, the government joins the  
16 recommendation of Pretrial Services that the defendant be  
17 detained pending trial for a number of reasons.

18 Starting with the conduct alleged, the defendant is  
19 charged with trafficking minors for sex acts, as the court  
20 explained, in violation of 18 United States Code § 591, and is  
21 charged with a count of conspiracy to traffic minors for sex  
22 acts in violation of 18 U.S.C. 371.

23 In particular, the indictment charges that the  
24 defendant engaged in a years-long scheme to sexually abuse  
25 underage girls, paying minor girls to themselves be abused, and

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1 also paying certain victims to recruit other girls to be  
2 subject to the defendant's sexual abuse.

3           The indictment alleges that the defendant undertook  
4 this conduct at at least two locations, including his mansion  
5 in Manhattan and his estate in Palm Beach, Florida. In both  
6 locations, victims were initially recruited to provide massages  
7 to the defendant, which would be performed nude or partially  
8 nude, would become increasingly sexual in nature, and would  
9 typically include one or more sex acts, including contact with  
10 the victims' genitals. These victims, who were often  
11 particularly vulnerable, were as young as 14, and the defendant  
12 knew he was abusing underage girls. The indictment further  
13 alleges that the defendant perpetrated these crimes by working  
14 with others, including employees and associates who facilitated  
15 these abusive encounters.

16           Regarding the defendant himself, your Honor, he is  
17 extraordinarily wealthy, mobile, and unattached to the Southern  
18 District of New York. He maintains at least six residences in  
19 the United States and abroad, including the ownership of a  
20 private island in the U.S. Virgin Islands and a residence in  
21 Paris, France. Among other things, the defendant owns two  
22 private jets and routinely uses them to travel abroad. He is a  
23 man of nearly infinite means, your Honor; and, as set forth in  
24 our submission, he has tremendous incentives to use those means  
25 to flee prosecution.

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1           The government notes as an initial matter that this is  
2 a presumption case because sex trafficking is charged; and,  
3 moreover, each of the four factors to be considered in the  
4 detention analysis strongly militates towards pretrial  
5 detention.

6           So starting with the nature and seriousness of the  
7 offense, as previously discussed, the nature and circumstances  
8 of the crime are the most serious crime that this court sees.  
9 The defendant is alleged to have spent years sexually abusing  
10 minors in multiple locations and with dozens of victims.

11           The seriousness of the charge is also reflected in the  
12 potential penalties, which include up to 45 combined years of  
13 incarceration on Counts One and Two, and the likelihood of a  
14 substantial period of incarceration is supported by the fact  
15 that the government's evidence is strong. There are multiple  
16 individual identified victims in the indictment, numerous  
17 specified overt acts, and dozens of overall victims alleged.

18           In order to protect the privacy of the victims, your  
19 Honor, I'm not going to go into detail about particular  
20 victims, but we can say that information provided by victims  
21 has been detailed, it has been credible, and it has been  
22 corroborated by other witnesses and contemporaneous documents  
23 and records, including from a recent search of the defendant's  
24 Manhattan mansion, as I will discuss further in a moment.

25           Separately, your Honor, in just the last 36 hours,

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1 that is, post charge, we have been contacted by multiple  
2 attorneys and several additional individuals who have  
3 identified themselves as victims and are interested in speaking  
4 with the government, none of whom the government has previously  
5 spoken with.

6 Your Honor, the defendant is 66 years old. He is  
7 charged with appalling crimes, and those charges are supported  
8 by significant evidence, including victim and witness testimony  
9 and damning record evidence. He faces the very real prospect  
10 of spending the rest of his life in prison. He has every  
11 motivation in the world to flee, and he has the means to do it.

12 And I will note for the court that this is a case  
13 where the government has really put its money where its mouth  
14 is on the risk of flight. This district took extraordinary  
15 efforts to maintain the covert status of its investigation for  
16 many months due to the risk of flight of the defendant -- not a  
17 single media report, not a single public statement, no appeals  
18 for victims to come forward because of precisely the flight  
19 risks we are discussing now.

20 Turning to the characteristics of the defendant, your  
21 Honor, some individuals who face significant charges lack the  
22 means to flee. Not this defendant. As set forth in the  
23 government's submission, in the defendant's most recent sex  
24 offender registration, he lists six residences worth tens or  
25 hundreds of millions of dollars, including a residence abroad.



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1           The defendant has refused to answer any questions  
2 about his income or assets for the Pretrial Services report, so  
3 the scope of his wealth and his assets remains entirely  
4 concealed to the government and to the court. But the  
5 defendant certainly has access to endless means to flee,  
6 including two private jets. He has no meaningful family ties,  
7 and any argument that his properties would keep him in the  
8 United States ignores his ability to simply leave those  
9 properties behind in favor of moving beyond the reach of U.S.  
10 authorities to live off his extensive wealth abroad, extensive  
11 wealth, I should add, that the court doesn't even have any  
12 accounting of. He travels abroad extensively, has a residence  
13 in France, and all of those factors further contribute to the  
14 risk of flight.

15           With respect to danger and obstruction, again, this is  
16 a presumption case, and not only is the defendant charged with  
17 the sexual abuse of minors, he has previously pled guilty to  
18 solicitation of an underage girl. This court knows that  
19 defendants are routinely detained in this district when facing  
20 such charges and that this is not an unusual position for the  
21 government to take.

22           It is further concerning that there are credible  
23 allegations from the prior investigation that the defendant or  
24 his agents engaged in witness tampering and harassment, and in  
25 fact there is evidence that he was contemplating pleading

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1 guilty to that kind of offense in Florida. Those allegations  
2 include verbal harassment, evasion of legal process, and  
3 forcing off the road the father of an individual relevant to  
4 that investigation.

5 THE COURT: Can you elaborate on that last point about  
6 forcing somebody off the road?

7 MR. ROSSMILLER: Your Honor, what we have is the  
8 record evidence from an underlying civil dispute in Florida  
9 that discusses this incident and discusses it in the context of  
10 a potential plea of the defendant to obstruction or harassment  
11 charges. The government sets before this court that if the  
12 defendant was willing to undertake such measure simply as a  
13 result of an investigation, the potential for dangerous and  
14 obstructive activity in an indicted case is alarming and very  
15 real.

16 Despite having been previously convicted of a sex  
17 offense involving an underage victim and being a registered sex  
18 offender, the defendant has continued to maintain a vast trove  
19 of lewd photography of young-looking women or girls at his  
20 mansion. Your Honor, pursuant to judicially authorized  
21 warrants, law enforcement agents searched his home on Saturday  
22 and found at least hundreds, and perhaps thousands, of sexually  
23 suggestive photographs of nude females, many of whom appear to  
24 be underage.

25 I also want to note that the search revealed specific

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1 evidence from his home consistent with victim accounts. Even  
2 the room where the abuse occurred, your Honor, the massage  
3 room, was still set up in the same way it was 15 years ago,  
4 with a massage table and sex paraphernalia.

5 And with respect to the photographs --

6 THE COURT: When you say the evidence was consistent  
7 with victim accounts, is it limited to the massage table and  
8 massage room or is there something else?

9 MR. ROSSMILLER: Descriptions of the massage room and  
10 the massage table, that's correct, your Honor.

11 THE COURT: Okay. All right.

12 MR. ROSSMILLER: With respect to the photographs, your  
13 Honor, some of those were found in a locked safe which also  
14 held electronic disks with labels that included the words  
15 "Young Miscellaneous Nudes 1" and "Girl Pics Nude."

16 Your Honor, this is not an individual who has left his  
17 past behind. He is a continuing danger to the community and an  
18 extraordinary risk of flight and, for those reasons, the  
19 government joins the pretrial recommendation that the defendant  
20 be detained pending trial.

21 THE COURT: All right. Thank you.

22 Mr. Weingarten.

23 MR. WEINGARTEN: Thank you, your Honor. I will use  
24 the podium, if that's okay.

25 THE COURT: That's fine.

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1           MR. WEINGARTEN: So your Honor, I would like to start  
2 by providing some context, and then I'm going to make a  
3 suggestion as to how we proceed.

4           The beginning here is 2005 in Florida. That's when an  
5 allegation was received by the local police that Mr. Epstein  
6 was engaged in sexual conduct for money, prostitution.  
7 Thereafter, there was a very sophisticated three-year  
8 investigation by law enforcement, including locals and feds,  
9 into Mr. Epstein's conduct. Numerous girls were interviewed,  
10 employees were interviewed, and it is fair to say that a  
11 significant segment of the law enforcement community in Florida  
12 thought what we had in hand was simple prostitution. There was  
13 no coercion. There were no threats. There was no violence.  
14 And it is also fair to say that a significant portion of the  
15 law enforcement community in Florida believed that a local  
16 misdemeanor was the appropriate sanction.

17           Now, it is also --

18           THE COURT: Did you represent Mr. Epstein in the  
19 Florida investigation?

20           MR. WEINGARTEN: No, but I'm familiar with the  
21 records.

22           THE COURT: All right.

23           MR. WEINGARTEN: It is also true that there was a  
24 contrary view largely taken by the feds, and what ensued was a  
25 complex set of discussions and negotiations and finally an

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1 agreement, an agreement that was consummated and agreed to all  
2 the way up to main justice at a very, very high level.

3 The agreement involved a plea in state court to  
4 soliciting an underaged girl, which would require registration,  
5 compensation paid to alleged victims, and an NPA from the feds,  
6 in other words, a declination by the federal government, an  
7 agreement that was approved all the way up in main justice and  
8 it sure seemed like a global solution at the time to everyone  
9 involved, including my client.

10 What happened since then? Mr. Epstein continued a  
11 life of success, generosity, creativity and, more important, a  
12 law-abiding life from 2008 forward. How do we know? Because  
13 when you are in registration the way he is, every single night  
14 his whereabouts are known. There is constant reporting,  
15 constant monitoring, and absolutely, to our knowledge, no  
16 complaints by anybody from that moment forward about his  
17 conduct until we have arrived in court here.

18 Now, what has happened in court from that moment?  
19 There have been lawsuits, many of them ludicrous, dismissed out  
20 of hand. But when something like this happens, a lot of stuff  
21 comes out of the woodwork, and there were lawsuits that  
22 Mr. Epstein settled also in the normal course.

23 There was one particular litigation that leads to this  
24 occasion, and that is, under the Crime Victims Rights Act, that  
25 act simply says that victims have a right to be consulted by

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1 the United States, and there are alleged victims in this case  
2 who complain that they were not, and there has been extensive  
3 litigation in the Southern District of Florida before  
4 Judge Marra on that very subject. In fact, the judge concluded  
5 that the prosecutors from the Southern District of Florida did  
6 not adequately notify some of the victims about the ongoing  
7 discussions and the consummation of the deal and, in  
8 particular, the NPA. The United States took the position that  
9 they had no responsibility to do so, that they had treated the  
10 victims properly, and that matter continues to this day.

11 The consequences of that matter are overwhelming,  
12 because the judge suggested, I think three times, that the NPA,  
13 the declination, could be voided. And we think about that for  
14 a second. So a defendant negotiates what he thinks is a global  
15 solution with the feds. He does his time --

16 THE COURT: Does the nonprosecution agreement in  
17 Florida -- the nonprosecution agreements in the Southern  
18 District routinely say they are limited to the Southern  
19 District of New York.

20 MR. WEINGARTEN: Obviously --

21 THE COURT: Is there a similar provision in the  
22 Florida agreement?

23 MR. WEINGARTEN: I don't want to misstate. It is not  
24 before me. It is obviously going to be an important part of  
25 the pretrial motions. What is for sure is that there was --

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1 the negotiation with the Southern District included  
2 negotiations with main justice. What's also true is the  
3 investigation extended into the Southern District of New York  
4 and elsewhere in terms of girls being interviewed.

5 So obviously your question is relevant and will be  
6 part of the pretrial litigation for sure. But what matters  
7 here and for now is there certainly was a belief that there was  
8 a global solution based upon the facts on the ground.

9 THE COURT: Have you seen the Florida nonprosecution  
10 agreement?

11 MR. WEINGARTEN: Yes.

12 THE COURT: And --

13 MR. WEINGARTEN: I don't have it before me. I don't  
14 want to make a specific representation and not be completely  
15 accurate.

16 THE COURT: Okay. All right. Go ahead.

17 MR. WEINGARTEN: The consequences of this are huge in  
18 that if in fact there is a negotiation with a defendant, the  
19 defendant does his time, the defendant pays his victim, and the  
20 defendant spends ten years on the registration list and  
21 prosecutors don't adequately notify the victims, how in the  
22 world can that deal be undone? Every prosecutor in the world  
23 has to oppose that possibility. No defense attorney in their  
24 right mind would negotiate a deal with that potential  
25 consequence.

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1           So this is a huge problem for the department and what  
2       solution ensues, and I suggest the solution that ensued is this  
3       indictment. To us, this indictment is essentially a do-over.  
4       The allegations are from 2002 to 2005. This is old stuff.  
5       This is ancient stuff. This is the very stuff that was  
6       investigated by the feds in Florida, a sophisticated three-year  
7       investigation. Two of the alleged victims in this indictment  
8       are from Florida. The indictment here tracks the conduct that  
9       was investigated in Florida back before the agreement was  
10      reached. Obviously we need to get discovery to find out just  
11      how inextricably linked the investigation back in Florida is  
12      with what's going on here. We do know we are talking about  
13      ancient conduct. We do know we are talking about facts that  
14      are from 2002 to 2005, facts that were known to the United  
15      States prosecutors before they entered into the NPA, the  
16      declination. This is essentially a redo. That's how it feels  
17      to us. And if we are correct, that should chill the blood of  
18      every defense attorney who negotiates a deal with the United  
19      States.

20           In addition, we have -- the central allegation here is  
21      trafficking, and obviously it is useful and relevant to make  
22      inquiry as to why the trafficking law was passed. It is to  
23      cover abhorrent conduct, where young girls are kidnapped, they  
24      are fooled, they are forced to come usually to unfamiliar  
25      places, work in brothels where they service 15, 20 guys in a



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1 day. They can't leave or else their families are threatened.  
2 This is dreadful conduct.

3 I remember an occasion when the Attorney General Eric  
4 Holder and I think Director Comey had a press conference  
5 establishing this as a law enforcement priority. Every  
6 sensible person in the world would think that this is the exact  
7 right thing law enforcement should do.

8 This is not this case. There was no violence. There  
9 was no coercion. There was no intimidation. There is no  
10 deception. The bottom line, if you take a fair look at the  
11 facts of this case as alleged and in the record, you may come  
12 to the conclusion there was prostitution involved and maybe a  
13 lot of it, but that doesn't mean that the person involved is a  
14 pedophile, a rapist or, heaven knows, a trafficker. Just --

15 THE COURT: Well, if the women involved were under 18,  
16 isn't that rape?

17 MR. WEINGARTEN: My understanding --

18 THE COURT: Legally they are incapable of consent, are  
19 they not?

20 MR. WEINGARTEN: Well, it could be statutory rape.

21 But what I am talking about is trafficking and why the  
22 statute was passed, and obviously the statute was passed to  
23 protect women from the horrors that occur in such settings, and  
24 that is light years removed to what happened in this case.

25 So what about bond? I would suggest that the

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1 traditional issues that we look at, the issues involved, let's  
2 start with that, we believe we have extremely powerful motions  
3 relating to the government seeking two bites at the apple and  
4 for due process reasons, double jeopardy reasons, we don't  
5 think that will stand. We also think fundamentally what's at  
6 issue here is not trafficking. That's not why the statute was  
7 passed.

8           The risk to others, what we have here is at least ten  
9 years post incarceration in the State of Florida of conduct  
10 that has never been challenged by anyone until now. The  
11 registration requirements are onerous. He is under constant  
12 surveillance. Law enforcement knows, if they choose to look,  
13 exactly where he is at any time.

14           The risk of flight, what is true is from the moment of  
15 Judge Marra's litigation in the Southern District of Florida,  
16 the defendant knew that there would be challenges to the NPA.  
17 From 2013 on, there were representations made in court that  
18 that challenge was ongoing, and the defendant never sought to  
19 flee, never anticipated a time when he would flee, continued to  
20 live his law-abiding life. So the risk of flight, I think, is  
21 dramatically overstated in the government's presentation.

22           I think the traditional remedies that the court finds  
23 appropriate in case after case -- a large cash bond; passport  
24 relinquished; waiving extradition; a bracelet on; some form of  
25 supervision that is adequate to guarantee his appearance, it

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1 will be child's play to find that; bonds from other people,  
2 surety bonds from other people.

3 Because we have not had an opportunity to see our  
4 client until today and because we have just received the  
5 government's submission, what we would like to do is have the  
6 opportunity to sit down and put together a bail package, a  
7 coherent bail package in writing and provide it to the court.

8 I would point out on the obstruction allegation --

9 THE COURT: Let me ask you this -- sorry to interrupt  
10 you -- do you want to adjourn the detention hearing? Under the  
11 statute, you have up to three days.

12 MR. WEINGARTEN: What I would like is to have until  
13 the end of the week to provide something in writing, a specific  
14 recommendation in writing.

15 THE COURT: So you want to adjourn a determination of  
16 bail?

17 MR. WEINGARTEN: Yes.

18 THE COURT: Is there any objection to that from the  
19 government? The defendant is detained in the interim under  
20 3142(f).

21 MR. WEINGARTEN: Right.

22 MR. ROSSMILLER: Your Honor, we certainly don't object  
23 if the defendant is consenting to detention with leave to make  
24 a further application.

25 I think the government would like at least a brief

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1 opportunity to respond to some of those points, to the extent  
2 that the defense is arguing that Mr. Epstein should be granted  
3 bail as a general matter and the court is going to consider  
4 those arguments.

5 THE COURT: Well, the court always considers the  
6 parties' arguments.

7 But let me just come back to Mr. Weingarten for a  
8 minute. Mr. Weingarten, under the Bail Reform Act you are  
9 entitled to a continuance of three days, which I guess would  
10 take us to Thursday.

11 MR. WEINGARTEN: Right.

12 THE COURT: The other alternative, I guess, if you  
13 want to *de facto* extend that three days is consent to detention  
14 without prejudice.

15 MR. WEINGARTEN: We estimated that by Thursday we  
16 could get you something in writing and then appear back before  
17 you at your convenience.

18 THE COURT: Okay. Do you want to schedule it -- well,  
19 I think Thursday's proceedings right now would be in front of  
20 Judge Berman unless he wants to send it back to me for bail,  
21 but do you want to put this down for detention hearing on  
22 Thursday?

23 MR. WEINGARTEN: Can I make one point that I don't  
24 want to forget that I think is extremely important?

25 THE COURT: Go ahead.

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1 MR. WEINGARTEN: The last thing we did today was  
2 refuse to answer questions. What we said at Pretrial is heaven  
3 forbid we make a mistake, and in terms of assets, we wanted to  
4 be precise. So there was no refusal. There was a request for  
5 time to supplement. That was accepted. And that's part of the  
6 reason we want to sit down and make sure we get our information  
7 correct to provide to the court.

8 THE COURT: All right.

9 MR. WEINGARTEN: Can I make one other point?

10 THE COURT: Sure.

11 MR. WEINGARTEN: In terms of the obstruction, I think  
12 it is such a significant part of our argument that the conduct  
13 at issue is ancient. It is from 2002 to 2005. So obviously if  
14 the defendant is a threat to obstruct justice, the court needs  
15 to take that into account. The allegations raised -- and I  
16 just read them briefly because we just got the government's  
17 letter -- relate to negotiations between the feds and the  
18 defendant. Back when the Southern District of Florida was  
19 attempting to find an appropriate remedy, there were  
20 discussions going back and forth: Can we squeeze you into this  
21 statute? And it didn't work, and it didn't work because there  
22 is no factual basis. That is the reference to the alleged  
23 obstruction. Not obstructive acts. Instead, the feds in  
24 Florida agreed to the plea to the state offense because there  
25 was no appropriate statute that covered conduct that was

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1 proveable. That is the answer to the obstruction issue.

2 THE COURT: All right. So you want to adjourn the  
3 detention hearing until Thursday?

4 MR. WEINGARTEN: Yes.

5 THE COURT: All right. Is there any objection to that  
6 from the government? I think under the statute he is entitled  
7 to three days.

8 MR. ROSSMILLER: That is, of course, fine, your Honor.

9 I think we would like just a very brief opportunity to  
10 respond to some of those arguments so that they don't sort of  
11 hang with the court for three days unresponded to.

12 THE COURT: All right. Go ahead.

13 MR. ROSSMILLER: Just very briefly, your Honor, I  
14 think a lot of that discussion was entirely orthogonal to the  
15 issues here.

16 But just very briefly, with respect to the charges  
17 here, there is simply no force required for underage victims.  
18 A grand jury has properly returned an indictment, and these are  
19 fact issues that are being presented in large part.

20 Certainly the concept of child prostitution is,  
21 frankly, offensive and not recognized in federal law. The idea  
22 that children can consent to sex and be prostitutes is beyond  
23 the realm of federal law which contemplates trafficking, which  
24 is what has been charged here. Mr. Weingarten is free to argue  
25 to a jury that trafficking minors was only statutory rape or

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1 that those victims weren't treated as badly as the parade of  
2 horrors he has in mind. But for now the question is whether  
3 the defendant's attendance can be assured.

4 And with respect to the nonprosecution agreement --

5 THE COURT: I'm not sure I would refer to something as  
6 only statutory rape. The use of the word "only" before  
7 "statutory rape" I'm not sure sits well. But go ahead.

8 MR. ROSSMILLER: And I agree, your Honor.

9 With respect to the actual substance, the Southern  
10 District of Florida has represented in public filings that the  
11 nonprosecution agreement was limited to the Southern District  
12 of Florida, and we can litigate that in a motion to dismiss,  
13 but it is simply not relevant here.

14 With respect to the statute of limitations,  
15 Mr. Weingarten says that the conduct is old. He did not say  
16 that that it is beyond the statute of limitations because it is  
17 not.

18 And, finally, it is not the same conduct. Some of the  
19 conduct overlaps. Some of the conduct does not. And in  
20 particular, one of the two counts of the indictment is  
21 predicated exclusively on New York victims.

22 So for all of those reasons, we just ask the court to  
23 consider those responses as it awaits the defendant's filings  
24 later this week.

25 MR. WEINGARTEN: Can I just make one point to clarify?

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1 THE COURT: Go ahead.

2 MR. WEINGARTEN: On the statutory rape thing, I had a  
3 senior moment. There is no statutory rape because there is no  
4 penetration, and that is the answer to that question.

5 THE COURT: All right.

6 We will set this down for a detention hearing on  
7 Thursday, July 11, for the continuation of the detention  
8 hearing. Thursday, July 11, at 2 p.m.

9 The defendant is detained at least until the  
10 continuation of the detention hearing pursuant to 18 United  
11 States Code 3142(f).

12 I have been advised by Judge Berman that he wants to  
13 see counsel right after these proceedings. Judge Berman's  
14 courtroom is 17B. So counsel and Mr. Epstein should go to 17B.

15 All right. Anything else from the government?

16 MR. ROSSMILLER: Your Honor, ordinarily we would ask  
17 to exclude speedy trial time, but I think because we are going  
18 directly to Judge Berman, we have no such application.

19 THE COURT: Mr. Weingarten, anything else?

20 MR. WEINGARTEN: No, thank you, your Honor.

21 THE COURT: Mr. Weingarten, anything else?

22 MR. WEINGARTEN: No, your Honor.

23 THE COURT: All right. Thank you all.

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